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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

APPEAL FROM ORDER No 510 of 1998

with

CIVIL APPLICATION No 9853 of 1998

For Approval and Signature:

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the concerned : NO
Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals?

AHMEDABAD MUNICIPAL CORPORATION

Versus

SURYAKANT HIRALAL THAKKAR

Appearance:

1. Appeal from Order No. 510 of 1998
MR RR MARSHALL for Appellant No.
MR MB GANDHI for Respondent No. 1
MRS TRUSHA M GANDHI for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 11/01/2005

ORAL JUDGEMENT

1. The appellant has by way of this Appeal from Order challenged the order dated 17th August, 1998 passed by the City Civil Court, Ahmedabad in Application below Exh. 6 in Civil Suit No.4236/1997, whereby, the Trial Court has granted temporary injunction restraining the appellant from demolishing construction carried out by

the respondent.

2. Mr. Gandhi learned advocate appearing for the respondent has contented that the appellant Corporation has disturbed the construction in question pursuant to the order passed by the Trial Court. He has further submitted that the respondent has carried out construction as per the plan sanctioned by the appellant Corporation.

3. I have heard learned advocates for the respective parties and have perused the relevant record. While admitting the appeal this Court has not stayed the impugned order passed by the Trial Court. Now, if the contention raised by Mr. Gandhi is found to be true, then the order passed by the Trial Court will not come in the way of the respondent if the construction has been done as per the sanctioned plan, but if the construction has been done contrary to the sanctioned plan, then the order passed by the Trial Court restraining the appellant from demolishing the construction will remain in operation.

4. With the above clarification, the Appeal from Order stands disposed of.

CIVIL APPLICATION No. 9853 of 1998.

In view of the order passed in the Appeal from Order, no orders on this Civil Application.

The Civil Application stands disposed of accordingly.

[K.S. JHAVERI, J.]

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